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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,250	03/16/2001	Paul J. Cahill	7613-80971	8270

7590 06/18/2003

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EXAMINER

SHORT, PATRICIA A

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811250

Applicant(s)

Cahill

Examiner

Shurt

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on April 21, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-5, 9-12, 18-21 is/are pending in the application.
- Of the above claim(s) 1-5, 9-12, 18-21 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1712

The amendment filed on April 21, 2003 presenting only amended claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The amended claims are not readable on the elected invention because the elected claims were drawn to compositions comprising polyethylene terephthalate and elastomeric material, classified in class 525, subclass 177, while the amended claims are drawn to final products that are foamed classified in 521, subclass 138. The elected claims and amended claims are related as intermediate and final product. As the intermediate can be used other than to produce final products that are foamed, i.e. molded products that are not foamed, and as there is nothing on the record to show them to be obvious variants, the claims are deemed patentably distinct. The foamed products belong to non-elected Group III, set forth in the restriction requirement made June 5, 2002. Election of Group I, drawn to compositions comprising polyethylene terephthalate and elastomeric material, classified in class 525, subclass 177, was made without traverse in Paper No. 4, filed July 2, 2002.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

P. Short

June 5, 2003

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PATRICIA A. SHORT
PRIMARY EXAMINER

